IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 16TH OCTOBER 2007 / 24TH ASWINA 1929

WP(C).No. 29073 of 2007(J)

PETITIONER:

REMANI ELDOSE, AGED 41 YEARS,
W/O. ELDOSE, NEDUMPILLIL HOUSE, NELLIKUZHI P.O.,
KOTHAMANGALAM.

BY ADV. SRI.PEEYUS A.KOTTAM

RESPONDENTS:

1. NELLIKUZHI GRAMA PANCHAYAT,
REPRESENTED BY ITS SECRETARY, NELLIKUZHI P.O.,
KOTHAMANGALAM.

2. MANJU SUNNY,
THEYKKANAM HOUSE, NELLIKUZHI P.O.,KOTHAMANGALAM.

R1 BY ADV. SRI.K.K.CHANDRAN PILLAI
R2 BY ADV. SRI.P.K.MUHAMMED

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 16/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE, J.

W.P.(C) No. 29073 OF 2007

Dated this the 16th day of October, 2007

JUDGMENT

There is controversy at the Bar as to whether the constructions which have been undertaken by the 2nd respondent are violative of the Kerala Municipalities Building Rules which have been made applicable to the 1st respondent Panchayat. But the stand of the 1st respondent is that the constructions had actually started prior to the introduction of the KMBR to the Panchayat, i.e., prior to 06.06.07. I do not find any reason as to why the above stand of the Panchayat should not be accepted. Drawing my attention to Ext.R2(a), Sri.Peeyus A. Kottam, counsel for the petitioner submitted that Ext.R2(a) will show that upon receiving the stop memo from the Panchayat, the petitioner filed a fresh application for building permit on 24.08.07. That act on the part of the petitioner itself will demonstrate that the building rules are applicable or else it was sufficient that the petitioner gave intimation to the Panchayat regarding the on going constructions. Mr.Peeyus further submitted that in any event, having submitted Ext.R2(b) plan, the petitioner is not entitled to violate Ext.R2(b) plan. Resisting the above submission, Mr.Chandran Pillai, Counsel for 2nd respondent submits that it was not necessary that the petitioner filed application for building permit on 24.08.07. It was

sufficient that he gave an intimation as required by Clause 8 of Gov rnment Circular No.24136(1)/R.A.1/07/LSGD dt.25.07.07. B t the fact is that the constructions commenced prior to 06.06.07. The 2nd respondent approached the Panchayat seeking permit for constructions and the Panchayat issued the 2nd respondent with a certificate No.C3-2/07-358 dt.20.04.2007 informing the 2nd respondent that building rules are not applicable pursuant to the fact that she started the construction prior to 06.06.07. The Counsel also submitted that the 2nd respondent will not deviate from Ext.R2(b) plan. I record the above submission and dispose of the Writ Petition directing the 1st respondent Panchayat to ensure that the constructions which are being continued by the 2nd respondent are inconformity with Ext.R2(b).

PIUS C. KURIAKOSE, JUDGE

btt